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# ***THE INTERIM***

SEPTEMBER 2000

HELENA, MONTANA

VOL. XII NO. 16

## **BUSINESS, LABOR, AND AGRICULTURE COMMITTEE**

Committee Holds Work Session...The Business, Labor, and Agriculture Committee met for a work session on July 28 to gather information and discuss the direction of several pieces of draft legislation that attempt to address the policy issues raised by the HB 515 study on government competition with private vendors. The original proposal, a draft that would have created a commission to review and recommend privatization of certain agency-provided goods and services using a formal decision making procedure, was not pursued by the Committee. Many of the concepts in the draft were incorporated into other proposals, including the need to implement a full cost accounting pilot program and the completion of a commercial services inventory. The Committee believed that rather than create a commission to investigate complaints of unfair competition and respond to both public and private sector recommendations for enhancing service delivery, the role should go to the legislative branch, specifically the Business, Labor, and Agriculture Committee.

Committee Holds Final Meeting...The Committee's final meeting was August 31 and September 1. Earlier in the interim, the Committee had requested that each agency assigned to the Committee under SB 11 provide a presentation on the following issues:

- ▶ budgetary information including new requests, existing program budget increases, and any programs where the agency recommended that the budget be decreased;
- ▶ a complete and prioritized list of legislation recommended for introduction this coming session;
- ▶ any agency generated studies or investigations that address the quality of services or programs delivered;
- ▶ a report on consumer complaints; and

- outcomes of the most recent financial or performance audits and recommendations forwarded by the Legislative Auditor.

In order to ensure that the statutory responsibilities given to the Business, Labor, and Agriculture Committee are conducted effectively and produce valuable information for the members and the agencies, the Committee may recommend a number of guidelines for the members to consider for the interim beginning after the next legislative session. The members believe that the sharing of information is a critical component of developing and implementing important public policy decisions.

To Look at Regulatory Environment...The Committee also discussed the possibility of recommending that the Legislature, the Public Service Commission, and certain entities regulated by the PSC engage in a discussion of the regulatory environment in Montana. The specifics of this forum have not yet been finalized, but could take the form of an interim study that allows both public and private members to have a decision making role in any proposed recommendations for the future.

Bill Drafts Considered...The Committee considered two draft bills dealing with the issues brought forward during the HB 515 study. The first, LC8587, creates a full cost accounting pilot program and requires six agencies (Administration, Commerce, Corrections, Environmental Quality, Public Health and Human Services, and Transportation) to conduct exercises to isolate program costs and report the information to the Committee during the next interim. Each agency listed must choose programs or activities according to specific guidelines, including programs that account for at least 25 percent of the agency's total budget. The Committee will review the information and make a recommendation to the 58th Legislature about the need to require all state agencies to adopt a full cost accounting model.

The second bill draft, LC8588, requires that each Executive Branch agency complete an annual commercial services inventory that contains information about goods and services that could be provided by the private sector and any goods and services that are currently being provided by the private sector. The Executive Branch and the Legislative Branch could use the information to begin to implement practices that increase efficiency and effectiveness or identify certain agency-provided goods and services that could be provided by an alternative provider, including the for-profit private sector. Additionally, the Committee will conduct regular hearings throughout the interim to review the commercial services inventory and gather information regarding the effective delivery of services.

The Committee is also charged with hearing complaints from the private sector who wish to provide information about government competition with private sector vendors. Following a hearing, the Committee may recommend to the Governor's Office that agency service delivery procedures be changed to ensure the best quality service at the best value, or, recommend legislative remedies, that if adopted, would accomplish the same outcomes.

Both of the drafts developed by the Committee contemplate establishing a

process that allows the Executive Branch and the Legislature to develop sensible administrative policies that help strengthen the agencies core missions.

Subcommittee Meets...The Workers' Compensation Subcommittee met on August 30, to make their final recommendations to the full Committee. The Subcommittee reviewed several bill drafts addressing the cost and frequency of certain types of injury claims.

Copies of the bill drafts and a variety of staff research papers can be found at the Business, Labor, and Agriculture Committee website at the following address: [http://leg.state.mt.us/Interim\\_Committees/Business/index.htm](http://leg.state.mt.us/Interim_Committees/Business/index.htm).

NOTE: This issue of **THE INTERIM** was published before the final recommendations of the Committee were made. Copies of the bill drafts will be available at the Committee's website by the end of September. If you have any questions about the final Committee meeting, please contact Gordy Higgins at 444-3064, or by e-mail at <gohiggins@state.mt.us>.

## ENVIRONMENTAL QUALITY COUNCIL

EQC to Meet in September...The Environmental Quality Council (EQC) will be holding its next meeting in Helena on Monday and Tuesday, September 11 and 12 in the State Capitol in Room 172. The agenda includes EQC review of:

- (1) state agency environmental enforcement and compliance issues;
- (2) environmental and natural resource conditions and trends;
- (3) the Department of Fish, Wildlife, and Parks Pheasant Enhancement Program;
- (4) 2001 state agency legislative proposals;
- (5) coal bed methane issues; and
- (6) the state water information system.

The Council will also make decisions on whether to forward EQC study legislation to the 2001 Legislature. Set out below are the EQC Subcommittee reports.

To view the Council's or any Subcommittee's minutes from previous meetings or Council and subcommittee work plans, agendas, and press releases, please visit the EQC web site at <http://leg.state.mt.us/Services/lepo/index.htm>. If you have any questions or would like additional information or to be placed on the EQC interested persons mailing list, contact Todd Everts by phone at 444-3747 or by e-mail at <teverts@state.mt.us>.

Montana Environmental Policy Act (MEPA ) Study...The EQC approved the MEPA Subcommittee's study report, findings, and recommendations at its July 28

meeting. The EQC will be making decisions on two pieces of draft legislation at the meeting to be held on September 11-12. The draft legislation is as follows:

LC0222 requests the EQC to conduct an interim study on the MEPA statutory fee schedule, MEPA alternative analysis, state agency use of programmatic environmental reviews, and the adequacy of state agency MEPA administrative rules.

LC1001 is clean-up legislation that clarifies that new issues not first presented to the agency in an action challenging a decision under MEPA must be remanded by the district court to the agency for its consideration.

For more information please contact Todd Everts at 444-3747 or by e-mail at <teverts@state.mt.us> or Larry Mitchell at 444-1352 or by e-mail at <lamitchell@state.mt.us>.

Water Policy...As the EQC did not receive any comments in favor of the draft recommendations in its draft report "Water Policy 2000", the Council decided not to make any recommendations related to the regulation of swine facilities.

Funding for Growth Policies...The EQC recommended that the Legislature provide additional state funds to local governments and authorize additional funding authority for local governments for planning. Specifically, the EQC recommended that the Legislature appropriate \$1 million each year for grants to cities, towns, and counties to be used for the development or implementation of growth policies. The funds should be appropriated from a combination of the following funding sources: coal severance tax revenue (including money currently allocated for county land planning), the general fund, and, potentially, the treasure state endowment account. The EQC is currently seeking comment on draft legislation.

You may obtain the following information about the EQC's recommendations and draft bills on the EQC's web site or by contacting Mary Vandenbosch by phone at 444-5367 or by e-mail at <mvandenbosch@state.mt.us>.

- ▶ EQC Findings and Recommendations
- ▶ Summary of Draft Bills
- ▶ LC 8001 (grant program for local growth policies)
- ▶ LC 8002 (funds grants with coal severance tax revenue and general fund)
- ▶ LC 8003 (funds grants with coal severance tax revenue)
- ▶ LC 8004 (funds grants from treasure state endowment fund)
- ▶ LC 8005 (funds grants from general fund)

You may access this information on the EQC's website (<http://leg.state.mt.us/services/lepo>) by clicking on "Land Use/Trends" on the left of the page, then clicking on "Draft Legislation."

Eminent Domain...The EQC Eminent Domain Subcommittee held its final meeting on July 26-27. On July 26, the Subcommittee reviewed the public

comments it received on the draft report "Public Benefits and Private Rights: Countervailing Principles of Eminent Domain" and heard public testimony. The Subcommittee discussed the concerns that were outlined in the written public comments and discussed alternatives for addressing those concerns. On July 27 the Subcommittee made its final findings and recommendations, which included 6 bill drafts to be presented to the full EQC. The Subcommittee presented its decisions to the full EQC on July 28 for its review. The EQC approved the Subcommittee's findings and recommendations, except those associated with bill drafts. The EQC will be making decisions on draft legislation at the meeting to be held on September 11-12.

To view the minutes from previous meetings, the Subcommittee's work plan, the draft final report on the eminent domain study, and draft legislation please visit the EQC web site at <http://leg.state.mt.us/Services/lepo/index.htm>. If you have questions or would like additional information please contact Krista Lee at 444-3957 or at <klee@state.mt.us>.

## MENTAL HEALTH MANAGED CARE SUBCOMMITTEE

Subcommittee Meets in July... The Mental Health Managed Care Subcommittee met July 25 and held a follow-up telephone conference call on July 28. The Subcommittee reviewed two draft bills, revenue estimates to increase co-payments and institute premiums for the general fund supported Mental Health Services Plan (MHSP), and cost estimates to raise MHSP financial eligibility. The Subcommittee also considered standing agenda items and identified other issues and recommendations it will review at its final meeting on September 27 and 28.

Generally, the draft bills considered by the Subcommittee:

1. clarify when Medicaid managed care contractors are subject to financial solvency review by the Insurance Commissioner and remove the requirement for the Department of Public Health and Human Services (DPHHS) to incrementally implement mental health managed care; and
2. establish a process to revoke commitments to community mental health services that is similar to the process to revoke release from the Montana State Hospital.

The Subcommittee reviewed cost estimates to raise financial eligibility for MHSP. At the time the Subcommittee met, DPHHS had proposed cost reduction measures to offset an anticipated \$4 million general fund shortfall in mental health services in fiscal 2000. The two most significant reductions were lowering financial eligibility for the program from 150 percent of the federal poverty level to 120 percent and suspending new enrollment in the program. (NOTE: Since the Subcommittee meeting, DPHHS has revised its estimate of the shortfall to \$15 million general fund over the 2001 biennium and is amending its cost reduction plan.)

The Subcommittee considered staff cost estimates to reinstate financial eligibility to 150 percent of the federal poverty level, continue enrollment in MHSP, and raise financial eligibility to 180 and 200 percent of the federal poverty level. The Subcommittee also reviewed preliminary estimates of revenue that would be generated through imposition of premiums and additional co-payments for MHSP services. The Subcommittee directed legislative and DPHHS staff to work together to refine cost and revenue estimates for consideration at the final meeting in September.

Final Meeting in September...At its final meeting on September 27 and 28, the Subcommittee will consider the following items:

- ▶ endorsement of training for local law enforcement and others who deal with persons with a serious and disabling mental illness;
- ▶ a resolution urging the use of teleconference video capability in court room proceedings to consider commitment of persons to Montana State Hospital (MSH);
- ▶ pass through of federal Medicaid matching funds for local government costs to transport persons to mental health services;
- ▶ increasing access to psychiatric services through video teleconferencing and rate increases;
- ▶ direction to executive branch agencies to develop a process to ensure cooperation when two or more agencies are providing services to a child and to begin development of a shared data base;
- ▶ a methodology to project MSH population estimates for budgeting;
- ▶ a management process developed by DPHHS to ensure compliance with federal Medicaid regulations;
- ▶ improvements in case management;
- ▶ expansion of Medicaid eligibility for children and pregnant women by removing the assets and resources test;
- ▶ use of federal funds including Children's Health Insurance Program and Temporary Assistance for Needy Families to offset general fund mental health costs;
- ▶ changes to statutes governing the Mental Health Managed Care Ombudsman; and
- ▶ recommendations made by the Mental Health Oversight Advisory Council.

The Subcommittee will make its recommendations to the Legislative Finance Committee at its October 2 and 3 meeting.

If you have questions or need additional information about the Mental Health Managed Care Subcommittee, please contact Lois Steinbeck at 444-5391.



## LAW, JUSTICE, AND INDIAN AFFAIRS COMMITTEE

LJIAC Holds Final Meeting...The Law, Justice, and Indian Affairs Committee (LJIAC or Committee) held its final meeting of the 1999-2000 interim on August 24 and 25. The Committee finalized study reports and recommendations for the studies it had been charged with conducting. Those studies are the HJR 37 study of women's prison issues, the SJR 14 study of sentencing statutes and data, and the HJR 12 study of a proposed commission on Indian Affairs. The study reports are being completed by staff and will be incorporated into the Committee's final report. The LJIAC also heard from the Department of Corrections on matters such as staffing at Montana State Prison, the Department's automation project, and population projections.

Committee Wraps Up Interim Work...The LJIAC wrapped up its review of a number of items it had been addressing during the interim, resulting in the following:

- ▶ Committee authorization for staff to pursue draft legislation regarding human remains repatriation and Burial Board reimbursement--issues brought before the Committee in November, 1999;
- ▶ a determination that a proposed commission on Indian affairs not be pursued further at this time;
- ▶ a recommendation to the Legislative Council (by an 8-3 vote) to remove from the LJIAC the Indian Affairs component of the Committee's responsibilities and create a new State-Tribal Relations Committee;
- ▶ Committee authorization for staff to draft legislation establishing an intermediate appellate court;
- ▶ Committee authorization that legislation be drafted to extend for 4 years the sunset provision contained in HB 670, the Indian Economic Development Act; and
- ▶ Committee authorization of a number of draft bills codifying Supreme Court opinions and other suggested legislation.

Staff to Draft Final Report...The final report will be organized to reflect the distinct responsibilities of the LJIAC. The main body will be divided into two parts: "Corrections, Justice, and the Courts" (Part A) and "State-Tribal Relations" (Part B); the pagination will reflect the two parts. Those parts are then divided further into the numerous topics the Committee explored during the interim. Final reports resulting from the studies on women's prison and sentencing issues are included in Part A and the final report resulting from the study of a commission on Indian affairs is included in Part B. Committee recommendations will appear throughout the document highlighted in a shadow box graphic.

The Committee's final recommendations will be detailed in next month's ***THE INTERIM*** and in the Committee's final report.

Draft legislation and final reports will be added to the Committee's web site in

the next few weeks. For more information on the LJAC or the Committee's final recommendations, contact Leanne Kurtz, Committee staff, at 444-3064 or via e-mail at <lekurtz@state.mt.us>.

## PUBLIC INFORMATION SUBCOMMITTEE

To Report Findings...As noted in last month's *THE INTERIM*, the Public Information Subcommittee will report its findings on televising the Legislature to the full Legislative Council at the next Council meeting, scheduled for Monday, September 18. The presentation will include an outline of enabling legislation to be considered in the 2001 session, as well as a further description of the dual track cable and Internet broadcasting experiment (TVX) that staff will be conducting with contracted help during the Session.

Delays in completion of phase I of the Capitol Restoration Project have placed a temporary hold on the technical aspects of the TVX project, but work will resume in earnest in early or mid-October. Meanwhile, the general design of a legislative package to establish ongoing statewide public affairs programming from the Capitol is taking shape. An important component will be a set of rules by which production staff will have to abide to prevent any partisan or personalistic shenanigans with remotely controlled camera shots and angles. This challenge has been met very successfully in a number of other states, and the proposed language will closely mimic what's been hammered out in Washington, Minnesota, and Connecticut. Legislators and lobbyists will not have to worry about behind-the-scenes producers attempting to grab TV ratings points by copying the slo-mo and extreme close-up antics of network shows like *Survivor* and *Big Brother*.

Documents describing the Subcommittee's work to date are accessible to Internet users at the Legislative Council's home page located at <http://leg.state.mt.us/Services/LegCouncil.htm>. Paper or electronic copies of these same documents, as well as forthcoming reports, are also available on request from Research Analyst Stephen Maly. Call 444-3064 or send an e-mail to <smaly@state.mt.us>.

## TRANSITION ADVISORY COMMITTEE

Final Meeting in October...The Electric Industry Restructuring Transition Advisory Committee (TAC) will hold its last meeting of this interim on Friday, October 6 in Room 102 of the State Capitol in Helena. The formal agenda has not been set yet, but it will doubtless include updates on the status of Montana Power Company's (MPC) divestiture of all of its energy utility businesses, the "Tier 2" proceedings of MPC's transition plan filing with the Public Service Commission, the unanticipated interruption in the Bonneville Power Administration's multi-year power

sales subscription process, and, not least, what sorts of legislative responses, if any, will be recommended by the Committee to deal with region-wide price spikes as well as other problematic dimensions of the transition to customer choice.

Legislative Council on River Governance...On the afternoon of October 5, the TAC will sponsor a forum on the interrelated issues of water, power, and fish that are being addressed by the Legislative Council on River Governance (LCRG) as well as other multi-jurisdictional bodies in the Columbia River Basin. The LCRG is made up of delegations of legislators from Washington, Oregon, Idaho, and Montana and has been convened under the auspices of the western branch of the Council of State Governments. The Council has held several meetings, most recently in Whitefish, and will gather again in Seattle on September 13-15. The October 5 discussion (from 1 p.m. to 5 p.m., Room 102) will provide an opportunity for interested members of the public in Montana to listen to and comment on the work of the LCRG to date. An executive from Bonneville Power Administration will be on hand to provide a detailed overview of the political, economic, and environmental forces that are combining to shape the future governance of the Columbia River and its hydropower infrastructure.

For further information about TAC or LCRG, please contact Research Analyst Stephen Maly at (406) 444-3064 or send an e-mail message to <[smaly@state.mt.us](mailto:smaly@state.mt.us)>. Internet users are invited to visit the TAC web page at [http://leg.state.us/Interim\\_Committees/TAC](http://leg.state.us/Interim_Committees/TAC).

## REVENUE AND TAXATION COMMITTEE

Committee Considers Bill Drafts...The Revenue and Taxation Committee met August 18. Committee staff presented three legislative proposals for Committee consideration.

In 1999, the Legislature referred House Bill No. 540 to the electorate. The referendum, if approved by the voters, would, among other things, replace the existing scheme of taxing passenger vehicles based on the manufacturer's suggested retail price with registration fees based on the age of the vehicle. The measure would also allow vehicle owners to register their vehicles for 2 years and owners of vehicles 11 years or older to permanently register their vehicles. Staff presented a bill draft that would clarify certain provisions related to the new light vehicle fees and to other motor vehicle legislation enacted by the 1999 Legislature. These provisions include:

- ▶ clarifying the payment of a portion of other registration fees to the pension trust fund for supplemental pension benefits for Highway Patrol retirees;
- ▶ allowing a vehicle that is registered for more than a 12-month period to display the license plate in effect at the time of registration; and

- clarifying that an ex-prisoner of war is exempt from the new registration fees.

Jim Standaert, Legislative Fiscal Division, presented an analysis of the impact of the new light vehicle registration fees on local governments and school districts and suggested recommendations for revising the distribution of fees if HB 540 is approved. The Committee created a subcommittee (Rep. Emily Swanson (Chair), Sen. Bob DePratu, Sen. Bill Glazer, and Sen. Mignon Waterman) to look in more detail at these recommendations. The Committee also decided to prepare a press release to describe the provisions of the referendum.

The second draft would allow the Transportation Commission, by request of a local authority, to set a reduced speed limit on a road that is being considered for a permanent reduction in the speed limit.

The final bill draft would allow a resident taxpayer an individual income tax credit for the resident's pro rata share of taxes paid by an S corporation to another state. The Committee had previously discussed the draft and requested that the credit apply to tax years beginning after December 31, 1996. The Department of Revenue suggested that language be added to ensure that the credit applies to the appropriate amount of taxes paid by the S corporation.

The Committee gave tentative approval for the bill drafts but delayed final consideration until the September meeting.

Debt Limit Subcommittee Presents Recommendations...Rep. Bob Story presented the recommendations of the Debt Limit Subcommittee. Under current law, the amount to which a local government may become indebted is based on a percentage of taxable value within the jurisdiction. Since 1995, the Legislature has enacted several measures reducing the tax rate, and hence taxable value, applied against certain classes of property. Because reductions in taxable value affect the ability of local governments to incur debt, the Legislature has created a complicated and inconsistent method to calculate and maintain the level of debt capacity. In an effort to simplify the existing structure, the Debt Limit Subcommittee has recommended that market value rather than taxable value be used as the basis for establishing debt limits for local government units, except school districts. The level of the market value of property is generally unaffected by the machinations of the Legislature. Because of school funding considerations, the Subcommittee has recommended that existing debt limit provisions for schools be maintained, but that the various adjustments to taxable value be eliminated. The full Committee will give final consideration to the Subcommittee's recommendations at the next meeting.

CPAs Urge Income Tax Reform...Representatives of the Montana Society of CPAs requested that the Committee consider various proposals to reform Montana's individual income tax system. The CPAs believe that the most important reasons to consider reform are to promote economic development and to simplify tax preparation and administration. They contend that the state's top marginal tax rate

of 11% is often viewed as an impediment to a sound business climate and economic development. They pointed out that the current system is confusing for many taxpayers and may lead to noncompliance. During the 1999 legislative session and the May 2000 special session, legislation was introduced to scrap the existing system and to base income taxes on federal taxable income. Although the legislation was rejected, the CPAs endorsed the underlying concepts. But they also recognized that other proposals could achieve the goals of economic development and simplification. They asked the Committee to look at options to revise the state's income tax structure. The Committee acknowledged that reform efforts are full of political pitfalls, but concluded that other methods of taxing income should be considered. Chairman Hibbard appointed a subcommittee to look at options to revise the state's income tax. Subcommittee members include Sen. Bob DePratu (Chair), Sen. Alvin Ellis, Jr., Sen. Vicki Cocchiarella, Rep. Bob Story, and Rep. Ron Erickson.

Other Topics...The Committee discussed a variety of other issues and topics, including:

- ▶ Department of Commerce rules related to advanced telecommunications infrastructure tax credits;
- ▶ transportation project funding and expenditures;
- ▶ status of the Department of Transportation rule regarding the suspension of a contractor; and
- ▶ the purpose of housing trust funds and the need for affordable housing.

Committee to Meet on September 15...The Committee will meet at 8 a.m. on Friday, September 15 in Helena. Tentative agenda items include:

- ▶ presentation of city issues related to transportation projects;
- ▶ final consideration of bill drafts to revise debt limits of local governments and school districts, clarify certain provisions of HB 540, revise speed limit provisions, and allow a tax credit for taxes paid by an S corporation;
- ▶ review of Department of Revenue and Department of Transportation budget requests and legislative proposals for the next biennium;
- ▶ progress report on the Department of Revenue's property reappraisal plan; and
- ▶ proposal to provide assistance for low-income housing under Habitat for Humanity.

Income Tax Subcommittee...The Income Tax Subcommittee will meet at 10 a.m. on Thursday, September 14, in Helena to discuss income tax options.

For additional details about Committee activities contact Jeff Martin by calling (406) 444-3064 or by e-mail at <jmartin@state.mt.us> .

## STATE ADMINISTRATION, PUBLIC RETIREMENT SYSTEMS, AND VETERANS' AFFAIRS COMMITTEE

Subcommittee on Military and Veterans' Affairs...During its third meeting of the interim on August 3, the Subcommittee on Military and Veterans' Affairs:

- ▶ heard a staff presentation on the evolution of veterans' benefits and health care services by the U.S. Department of Veterans' Affairs (VA), the VA claims process, demographic information about Montana's veterans, and how Montana's Veterans' Affairs Division assists veterans with claims processing through the VA;
- ▶ received an overview of the VA nursing home facility in Miles City and the two state veterans' nursing homes in Columbia Falls and Glendive;
- ▶ received a report on the activities and recommendations of the Veterans' Resource Coalition appointed by the Adjutant General, Maj. Gen. John Prendergast, director of the Department of Military Affairs, to coordinate services to assist homeless veterans in Helena;
- ▶ received public testimony requesting a legislative study of certain issues raised by officers and members of the Vietnam Veterans' of America; and
- ▶ took action to request four pieces of legislation, which will be reviewed and on which final action will be taken on September 14:
  - (1) a bill to amend resident hunting license statutes so that a Montana resident does not lose the right to a resident hunting or fishing license if another state offers, and the person exercises, resident hunting and fishing privileges in the other state simply by virtue of that person being a member of the U.S. armed forces;
  - (2) a bill expanding the special \$5 vehicle registration fee for eligible 100% disabled veterans to encompass recreational vehicles, such as motor homes;
  - (3) a bill to release mortuaries from simple liability if the mortuary releases the unclaimed remains of veterans to a veterans' service organization for interment in a veterans' cemetery; and
  - (4) a study resolution for an appropriate interim committee to conduct a study of resource allocation and budgeting processes, cost-shifting from veteran programs to other public-funded programs, veteran representation in the resource allocation decision-making process, a grant program to help coordinate services, and the release of VA medical records to the FBI.

The Subcommittee will review the bill drafts and take final actions on September 14.

Subcommittee on Disability and Retiree Health Care...During its fourth meeting of the interim on August 3, the Subcommittee on Disability and Retiree Health Care

began finalizing its recommendations, which will be to:

- ▶ provide disability benefits for members of the Public Employees' Retirement System (PERS) who elect to join the new Defined Contribution retirement plan; and
- ▶ provide PERS members with the opportunity to opt into a program that will provide employer contributions into a health care expense trust account in lieu of "cashing out" certain amounts of unused sick leave upon termination.

The Subcommittee will further refine and complete work on crafting its recommendations on September 14.

Committee Hears Retirement Proposals...The Committee on State Administration, Public Retirement Systems, and Veterans' Affairs conducted public hearings on 27 proposals affecting the public retirement systems, a task the Committee took upon itself as the successor to the Committee on Public Retirement Systems of previous interims. The Committee will consider staff analysis and information on the fiscal impacts of each proposal and then will adopt a Committee report on each of the proposals at its meeting on September 15. Committee reports on the proposals are intended to assist the full Legislature when, or if, the proposal is introduced as a bill during the 2001 session by identifying the key policy and fiscal implications of passing or not passing the proposal.

For further information about the Committee or its Subcommittees, please contact Sheri Heffelfinger at 444-3596 or <sheffelfinger@state.mt.us>. You can also visit the SAIC's website, which offers meeting schedules, agendas, and minutes, by following the cues from the State of Montana's home page at *state.mt.us*.

## LEGISLATIVE COUNCIL

Council Selects Executive Director...The Legislative Council met July 31 principally to select a person to serve as Executive Director beginning later this year. The Council selected Lois Menzies from among three finalists. Lois brings extensive experience with Montana state government to the job. Her experience includes having served as a Legislative Researcher for the Legislative Services Division. She has served as director of the State Department of Administration since January 1993. Ms. Menzies earned a Master's degree in political science from the University of Wisconsin and a bachelor's degree in political science from the University of Akron.

Lois plans to begin orienting herself to the Services Division by working half-time in September and then full-time beginning in October. Lois will take over the helm well in advance of the long anticipated departure of Bob Person. Bob will officially retire on December 29.

Revised Date for Presession Caucuses Set...The Legislative Council, in conjunction with other senior members of the Legislature, has set a revised date for the presession caucuses of Friday, November 17 with a starting time of 2 p.m. Everyone who will serve in the regular session next year should plan to attend in order to participate in the selection of leadership positions.

Council to Meet September 18...Among the topics to be considered by the Legislative Council at a September 18 meeting are:

1. Land transfer issues:
  - a. report on the status of the non-trust state land inventory / record keeping project - Mr. Clive Rooney; and
  - b. (tentative) gifting the Jefferson County rodeo grounds under 77-2-351, MCA - Mr. Rooney.
2. Review for approval the Legislative Branch Computer Systems Plan.  
The Computer Systems Planning Council will present the final branch plan scheduled for final recommendation at a meeting on September 14, .
3. Final approval of budget for submission.  
A budget incorporating elements discussed at the June Council meeting will be presented for final consideration prior to submission to the Office of Budget and Program Planning for inclusion in the Governor's budget.
4. Set prices for legislative proceedings.  
5-11-212, MCA, provides that legislative proceedings be provided for an amount prescribed by the Legislative Council. A staff recommendation will be prepared for the meeting.
4. Receive Code Commissioner Report.  
1-11-204, MCA, provides that the Code Commissioner prepare and publish a report on changes made during continuous recodification. Greg Petesch will present the report that will include changes recommended to be accomplished by bill. The Legislative Council should designate a sponsor for the bill.
5. Subcommittee Reports.  
The Subcommittees will schedule meetings during the morning of September 18 or earlier as needed and present their work.
  - a. Public Education Subcommittee
  - b. Legislator Education Subcommittee -- final dates and plans must be endorsed for the tentative November 30 through December 1 legislator training sessions.



6. Review Council legislation.

The following legislation has been prepared for review at the request of the Legislative Council. The legislation may be formally requested as is or with changes or be discarded from further consideration:

- a. generally revise laws governing interim committees; draft revisions to Council rules implementing the above legislation;
- b. revise laws governing special session presession activity; and
- c. Revise laws relating to presession caucus and orientation.

7. Adopt pay plan for session employees.

Section 5-11-105(b) provides that the Legislative Council "with the concurrence of the legislative audit committee and the legislative finance committee, adopt rules for the classification and pay of legislative branch employees. . ." Rules applicable to House and Senate session employees have not yet been adopted. Marilyn Miller and Rosana Skelton have worked extensively with Jim Kerins to analyze the situation and will present a recommendation for Council adoption.

## JUDICIAL REDISTRICTING SUBCOMMITTEE

To Hold Organizational Meeting...The members of the Judicial Redistricting Subcommittee of the Legislative Council will tentatively meet on the afternoon of September 8 to select a presiding officer and to discuss a draft hypothetical redistricting plan with a small group of district court judges in order to prepare a proposal for the Montana Judges Conference in October.

Information presented at the meeting can be found on the legislative website at (<http://leg.state.mt.us/Services/LegCouncil.htm>). For more information or to be placed on the interested persons mailing list, please contact Susan Byorth Fox, Research Analyst, Legislative Services Division, (406) 444-3597 or <[sfox@state.mt.us](mailto:sfox@state.mt.us)>.

## CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee Holds Final Meeting...The Children, Families, Health, and Human Services Committee held its final meeting on Thursday, August 17. The agenda included updates from DPHHS, the various mental health committees, and the Montana Dental Access Coalition. The Committee received the following reports, some of which were required by House Bill No. 2:

- ▶ Abstinence Education grant report;

- FAIM Phase II;
- SSI Assistance;
- FAIM Sanctions;
- the Montana Dental Action Plan;
- the Governor's Council on Families;
- the Developmental Disabilities Futures;
- the Interagency Coordinating Council;
- The State of Aging in Montana;
- DPHHS 2001 legislative proposal summaries; and
- and a budget overview.

The Committee made the following final recommendations:

1. The Department should continue to meet and discuss with interested parties to resolve the issues revolving around developmental disabilities placements and to work to develop a seamless system in the continuum of care and revision of commitment laws. A seamless system should reflect the appropriate level of services at the appropriate time for the clients. The Committee asked that a progress report be provided to the 2001 Legislature.
2. The Committee endorsed letters of support to the Governor regarding the DPHHS original budget request for increased reimbursement rates for dentists. The Committee supported the Board of Regents' request for additional slots for students of dentistry in the WICHE and University of Minnesota programs and requested that the Governor and the Board of Regents be sent letters to that effect. The Committee also endorsed a letter of encouragement to the Board of Regents to support the re-establishment of a school of dental hygiene in the state. The Committee urged the DPHHS to continue to seek prevention funds for dental and health education and screenings in school. The Committee saw this as an appropriate use of the tobacco use prevention funds.
3. The Committee also requested that a bill be drafted to authorize the purchase of state surplus vehicles for FAIM participants.

All Committee minutes, reports, and agendas and a link to Montana Dental Summit Information have been posted to the Committee's website at [http://leg.state.mt.us/interim\\_committees/](http://leg.state.mt.us/interim_committees/). For more information please contact Susan Byorth Fox by phone at (406) 444-3597, e-mail at <sfox@state.mt.us>, or mail to Legislative Services Division, PO Box 201706, Helena MT 59620-1706.

## DISTRICTING AND APPORTIONMENT COMMISSION

To Hold Training Session...The Districting and Apportionment Commission will hold a training session on the new autoBound redistricting software on September 20 and 21. The September meeting may be postponed until November but a date was not available at the time of printing. The main topic for the meeting will be the adoption of criteria for congressional and legislative redistricting. The interested persons will receive notice regarding the meeting approximately 1 week prior to the training. If you wish to receive the notice, please contact Susan Byorth Fox.

For more information or if you wish to be placed on the interested persons list, please contact Susan Byorth Fox by phone at (406) 444-3597, by e-mail at <sfox@state.mt.us>, or mail to Legislative Services Division, PO Box 201706, Helena MT 59620-1706.

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### THE 1990S, A TALE OF TWO FISCAL NOTES

By Jeff Martin, Research Analyst  
Legislative Services Division

#### INTRODUCTION

Shortly before the May 2000 Special Session, Terry Johnson, Principal Legislative Fiscal Analyst, presented a summary of the financial status of Montana's state general fund (or the state checking account as the press routinely calls it). He said that the fiscal year 1999 general fund ending fund balance was \$37.7 million higher than anticipated. Over half that amount, or \$19.8 million, was attributable to increased revenue collections. In particular, individual income tax collections exceeded estimates by significant amounts. Johnson attributed the higher collections to larger-than-expected growth in wage and salary income and capital gains income. If these trends continue, the general fund balance at the end of the current biennium could be \$86.3 million higher than originally estimated.

The luxury of such a large chunk of change is in stark contrast to the dire fiscal condition of Montana as well as other states in the early 1990s. The Montana Legislature was convened into several special sessions between 1989 and 1993 to deal with a variety of budget crises.

#### TROUBLES PAST

Stephen Gold in The Fiscal Crisis of the States: Lessons for the Future (Georgetown University Press, 1995) identified some of the causes of the fiscal crises experienced by many states. The most important cause was an economic recession that lasted about 9 months. Compared to other postwar recessions, it was a minor dip in the economic landscape. It did, however, have a profound effect on the national political scene (remember "It's the economy, stupid"?). According to Gold, the recession was more severe in the Northeast and California but was little-noticed in many other states. Nationwide, state revenue collections, after adjusting for inflation and legislated tax increases, showed year-over-year negative "growth" from the end of 1990 through mid-1992.

The second most important cause was the growth in Medicaid costs. The recession,

increases in health care costs, and expanded eligibility all contributed to higher costs of operating the Medicaid system. Between 1990 and 1992, Medicaid spending increased by 18.4% annually and by almost 11% annually between 1992 and 1995.

Increases in school enrollment exacerbated the fiscal condition of many states. The so-called "baby-echo", as Baby Boomers started families, began to work its way through the system. Public school budgets are the largest component of spending at both the state and local level. In addition, the school funding mechanisms in several states were challenged because those states did not ensure an adequate and equal education for all students. Because of court decisions, some states, including Montana, were required to assume a larger role in financing public education.

Other factors that contributed to the fiscal crisis included increases in spending on corrections, excessive government spending in general, voter initiatives that cut taxes, and obsolete tax systems that did not reflect changes in the economy. Gold identifies the sales tax as one revenue system that has not kept pace with the economy. Most states continue to rely on sales taxes on goods in an increasingly service-oriented economy. Gold also notes that several states either indexed their individual income tax systems (e.g., Montana) to offset the effects of inflation or reduced the progressivity of the income tax rates. The adherence to obsolete tax systems and changes to the income tax structure meant that tax collections were not growing as fast as income.

There were a variety of causes for the states' fiscal crises in the early 1990s, and the states were affected in a variety of ways. In Montana, it seemed as if the budgetary hard times would continue indefinitely. Conversations in the halls of the State Capitol often focused on the state's structural deficit. The view was that revenue growth would not be able to match spending to even meet current level expenditures. Spending cuts, the imposition of surtaxes, and fund transfers alleviated the crisis, as more permanent solutions were contemplated.

## TROUBLES LOOMING

With the apparent financial strength of the state general fund for this biennium, one may forget the hard times of the earlier part of the decade. Confronting the cyclical nature of government finance has to be a frustrating exercise for policymakers. The economic expansion of the last several years has allowed many states, including Montana, to simultaneously increase spending and reduce taxes. However, a recent study ("State Fiscal Issues and Risks at the Start of a New Century") by Donald Boyd of the Fiscal Studies Program, Nelson Rockefeller Institute of Government, may be a harbinger of trouble on the horizon. A summary of that study appears in the July 1, 2000, issue of "State Budget & Tax News" (Vol. 19, No. 13).

According to the study, the most serious threat to state fiscal security is the potential for a significant decline in income taxes. The income tax is more volatile than other taxes because of the progressive structure of the tax in which higher income taxpayers are subject to higher tax rates. Economists refer to the income tax as a "highly elastic" tax. That means that when personal income grows, tax collections grow even faster as people are exposed to higher tax brackets. Conversely, when personal income falls, tax collections fall by more than the decline in income. The rapid growth in the stock market and resulting increases in capital gains increases the volatility of the income tax because capital gains tend to be concentrated in higher income tax brackets.

Boyd examined the recent growth in nonwage income (stock options, capital gains, and other income related to the stock market boom) and constructed a measure of individual state reliance on capital gains income tax revenue. He calculated capital gains income as a percentage of total income and income tax revenue as a percentage of general revenue -- a broad measure that includes taxes, fees, intergovernmental revenue and other miscellaneous revenues; it is a broader measure than general fund revenue -- for each of the states. These percentages are indexed to the national average. Forty-one states impose broad-based income taxes, while New Hampshire and Tennessee (the Governor of Tennessee has been promoting the adoption of an individual income tax) tax only interest and capital gains. Seven states (Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming) do not impose income taxes.

The following table shows the indices for selected states from Boyd's study. The first column shows, for tax year 1997, capital gains income as a percentage of adjusted gross income, indexed to the national average of 7%. The second column shows income tax revenue as a percentage of general revenue, indexed to the national average of 18%. The last column averages the first two, indicating the measure of the relative importance of capital gains to a state's finances. Based on this average, Colorado ranks first among states because it relies heavily on income tax revenue and a large percent of the state's income is derived from capital gains. Capital gains income is 20% higher in Colorado than the national average, and the state receives 45% more income tax revenue as a percent of general revenue than the national average. According to Boyd's analysis, Montana ranks 25th among the states. Capital gains income in Montana, as a percentage of adjusted gross income, is 6.4% higher than the national average, but the relative importance of income tax collections is about 20% below the national average. The individual income tax is the most significant source of general fund revenue in the state. One factor that may explain why income taxes are relatively less important in Montana is that the state indexes its tax brackets to inflation. In addition, Montana receives relatively more federal revenue (e.g. federal highway funds).

Relative Importance of Capital Gains			
State	Index of Capital Gains as % of AGI	Index of Income Tax as % of General Revenue	Index of Capital Gains Importance
Colorado	120.2	145.0	174.2
Oregon	105.0	163.3	171.5
Connecticut	131.8	121.5	160.1
California	110.7	126.1	139.6
Massachusetts	76.5	169.8	130.0
Idaho	102.4	117.8	120.6
Utah	94.7	107.6	101.9
United States	100.0	100.0	100.0
Vermont	110.7	88.7	98.1
Missouri	77.5	124.2	96.3
Delaware	88.4	107.6	95.1
Montana	106.4	79.5	84.6
Arizona	103.0	81.7	84.2
New Mexico	85.9	60.5	51.9
South Carolina	49.0	101.3	49.7
New Hampshire	127.2	10.6	13.5

Boyd notes that the gains in the stock market in recent years have been above historical averages and expresses concern as to whether these gains can be sustained. If the stock market suffers a reversal in fortunes caused either by an economic recession or by other factors, then many states could experience erosion in their income tax bases. States that are above the national average in the relative importance of capital gains are at greater risk than states below the average.

Boyd also attributes increases in sales tax revenue to the growth in the stock market. The so-called "wealth effect" leads many individuals to "spend liberally from their current income". As with income taxes, a retrenched stock market would affect the tax bases of those states that rely heavily on sales tax revenue.

Finally, Boyd thinks that increased expenditures for K-12 education and Medicaid may force states into making difficult spending decisions. For example, property tax reform (or reductions) has meant that local property taxes are less important in funding public education, yet states must continue to strive to limit the differences in local wealth and educational opportunities. Conversely, declining school enrollment may mitigate the increased state participation in educational finance. Increasing health care costs may contribute to a growth in Medicaid expenditures of about 8% a year.

## CONCLUSION

A common misapprehension about the future is that existing conditions and trends will last indefinitely. In the early 1990s it was difficult to imagine the operation of state government in anything but a crisis mode. Certainly that was the reality for a time. But stopgap measures, persistent efforts to improve the efficiency of state government, and a robust economy have resulted in a very much improved fiscal condition for most states over the last several years. The question arises, then, how long will the good times last? Boyd raises interesting points about potential risks of the future. Whether these risks will become reality is unknown, but policymakers should take these risks seriously and be prepared to respond.





## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

### SEPTEMBER

September 4, Labor Day, holiday

September 7, Local Government Subcommittee, Room 102, 1 p.m.

September 8, Education and Local Government Committee, Room 102, 8:30 a.m.

September 8, Judicial Redistricting Subcommittee, Room 137

September 11-12, EQC, Room 172

September 14, Income Tax Subcommittee, Room 172, 10 a.m.

September 14-15, State Administration, Public Retirement Systems, and Veterans' Affairs Committee, Room 102

September 15, Revenue and Taxation Committee, Room 172, 8 a.m.

September 18, Legislative Council, Room 102, 1 p.m.

September 20-21, Districting and Apportionment Commission

September 27-28, Mental Health Managed Care Subcommittee

### OCTOBER

October 6, Transition Advisory Committee, Room 102

October 9, Columbus Day observed, holiday

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